

**FREDERICK COUNTY PLANNING COMMISSION
MEETING OF May 11, 2011**

Members Present: Robert White, Chair; John McClurkin, Vice Chair; Richard Floyd, Secretary; Billy Shreve, Commissioner Liaison; Audrey Wolfe, Robert Lawrence and Catherine Forrence

Staff Present: Eric Soter, Community Development Division Director; Jack Markey, Division of Emergency Management Director; Gary Hessong, Department of Permits and Inspections Director; Michael Chomel, Senior Assistant County Attorney; Kathy Mitchell, Assistant County Attorney; Larry Smith, Zoning Administrator; Jim Gugel, Chief Planner; Shawna Lemonds, Project Manager; Bryan Mitchell, Life Safety Review Manager; Tolson DeSa, Principal Planner; Tim Goodfellow, Principal Planner; and Erica Cooke, Recording Secretary

The Chairman began the meeting at 9:30 a.m.

1. MINUTES:

a) February 23, 2011

Ms. Wolfe noted corrections needed to be made on pages 4, 7 and 9.

Ms. Forrence commented on statements reflected within the minutes on page 7 in which the Planning Commission had requested Staff to provide the number of developers that have gone forward since the granting of the 2009 Extension and a listing of the actual cases approved for the new 2011 Extension. She stated they have not yet received that information and reiterated the request.

Decision: Ms. Forrence made a motion to approve the Minutes from the February 23, 2011 Meeting with corrections, as noted, 2nd by Ms. Wolfe.

Yea 7 Nay 0 Abstain 0 Absent 0

b) April 13, 2011

Decision: Ms. Forrence made a motion to approve the Minutes from the April 13, 2011 Meeting, 2nd by Ms. Wolfe.

Yea 6 Nay 0 Abstain 1 (Lawrence) Absent 0

2. PLANNING COMMISSION COMMENTS:

Mr. White introduced the FcPc members present and congratulated Ms. Wolfe on her reappointment to the Planning Commission.

3. AGENCY COMMENTS/AGENDA BRIEFING:

Eric Soter explained that if the Planning Commission had not completed hearing all items on the agenda by 12:30 p.m. there would be a need to relocate to the 3rd Floor meeting room, as another event was scheduled in the 1st Floor meeting room at 1:00 p.m.

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He also noted that included in the Planning Commission's packet was a copy of the School Mitigation/Construction Fee Ordinance that the Board of County Commissioners (BoCC) is considering and stated the Board of Education (BoE) had a meeting scheduled that day. BoE have a joint meeting scheduled with the BoCC on May 17, 2011. The joint meeting between the BoCC and County Municipalities is scheduled for May 26, 2011. The BoCC will have to officially initiate the ordinance through the public hearing process, therefore, the Planning Commission public hearing may not occur until July and the BoCC public hearing soon thereafter.

Regarding the Planning Commission's upcoming June meeting schedule, Mr. Soter stated it has yet to be determined as to whether there will be one or two meetings but would inform them once finalized.

4. ZONING TEXT AMENDMENT:

- a) YT-11-01-Continued from April 13, 2011 meeting- A public hearing was held regarding the proposed text amendment on April 13, 2011 which was continued, with the record closed, and a final recommendation to be made on May 11, 2011. The April meeting materials can be accessed via the Zoning Ordinance Rewrite webpage: <http://www.frederickcountymd.gov/index.aspx?nid=4484>

Staff Recommendations:

The Text Amendment is intended to provide for limited landscape contractor and outdoor sports recreation facility land uses in the Agricultural zoning district; amend processing of duplex and two-family dwellings, setbacks, concept plan, and maximum footprint requirements within the Village Center zoning district; amend Type-II and Type-III Administrative Site Development Plan Review provisions; amend Planned Commercial/Industrial Development provisions; establish provisions for electronic message signs; increase square footage allotment for limited roadside stands; and establish provisions for Commercial Vehicle Storage on Farms.

Staff requested a recommendation on the text amendments from the Planning Commission.

Staff Presentation:

Shawna Lemonds and Eric Soter presented a summary of the proposed amendments.

Decision: Mr. Floyd made a motion for a recommendation of denial of Zoning Text Amendment YT-11-01 based on noted concerns addressed at the April 13, 2011 meeting related to the proposed changes to the Village Center zoning district, Limited Landscape Contractor provisions, and the bundling of several text amendments in one public hearing package, 2nd by Ms. Forrence.

Yea 4 Nay 2 (Lawrence, Wolfe) Abstain 1 (Shreve) Absent 0

Decision: Ms. Forrence made a motion to forward to the Board of County Commissioners the following supplementary recommendations:

1. The proposed increase in Village Center zoning district maximum footprint should be amended to state that the increase shall not exceed the largest structure in the Village Center zoning district in that area, and if no larger structure exists then the existing provisions shall apply.

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2. The proposed Limited Landscape Contractor provisions should consider outdoor storage screening with respect to excessive size and number of equipment.
3. Uses permitted as an accessory to the proposed municipal parks should be limited to prevent restaurants and clothing apparel sales from getting out of hand.
4. A restriction should be added to the proposed provisions for Limited Landscape Contractor to require that chemical storage should be within a structure to prevent the chemicals from breaking down due to exposure to the elements.
5. Electronic message signs should be limited to use by institutional uses only within the A and RC zoning districts.

The motion was 2nd by Mr. Floyd.

Yea 6 Nay 0 Abstain 1 (Shreve) Absent 0

*Break 9:55 a.m., Resumed at 10:05 a.m.
(Power outage-loss of audio recording)
(Shreve left)*

5. SITE PLAN:

- a) Cell Tower-911 Governmental Utility Project- This application is requesting non-binding review and comment in accordance with Zoning Ordinance Section 1-19-4.110.B. Frederick County EMS is proposing to construct a 190' self-supporting tower with foundation, (2) 1,000 gallon propane tanks with foundations, as well as (2) concrete shelters with foundations for radio equipment and generators. The subject site is 2.16-acre site located at 14042 Tower Road. Located Tower Road, south of Fox Tower Road. Zoned: Resource Conservation (RC), Thurmont Planning Region. Tax Map 18 / Parcel 137. AP# 90883

Staff Recommendations:

The proposal has been submitted to the Planning Commission for review and recommendations as identified under the applicable sections of the Frederick County Code.

“§1-19-4.110 EXEMPTION OF ESSENTIAL SERVICES

(B) Government utilities shall be permitted in any district, it being the intention to exempt such facilities from the application of this chapter; except, that the plans of any overhead electric transmission line of 69 kilovolts or greater, of any cross country telephone trunk line, including microwave, transmission pipe line proposed to be created or installed in any district, shall be submitted to the Planning commission in adequate time for its review and recommendation.”

“§1-19-11.100 DEFINITIONS

GOVERNMENTAL UTILITY. A utility owned by governmental entity.

UTILITY. Any facility erected, constructed, altered or maintained as part of an integrated system or program designed to furnish necessary services for the public health, safety, or convenience, including water, electric, gas, communication (cable, wireless, satellite, telephone), steam or sewer.”

Staff Presentation:

Jack Markey, Director Division of Emergency Management presented the Staff report.

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(Shreve returned)

Discussion:

It was stated that the County Development Review office is not required to review this type of project and that the Planning Commission could make recommendations such as screening but that such recommendations may be non-binding.

*Break 10:20 a.m.
(Loss of video recording)*

*Resumed at 10:51 a.m.
(Power partially restored- audio cassette tape recording only at this point)*

Public Comment:

None

Decision: Mr. Lawrence made a motion for approval of Cell Tower-911 Governmental Utility Project as presented and in accordance with the Staff's recommendations, 2nd by Ms. Wolfe.

(Video and audio recording restored)

Discussion:

Mr. Shreve recommended the applicant review correspondence received from neighboring property owners in relation to the project regarding their concerns about screening and advised that those property owners be contacted and to work with them in order to resolve concerns.

Yea 7 Nays 0 Abstain 0 Absent 0

- b) Carmax- The applicant is requesting site plan approval for a 36,726 square foot automobile dealership and accessory automobile repair shop, on a 12.76-acre site located within the GC General Commercial zoning district. Located along MD Rt. 355, south of Grove Road. Zoned: General Commercial (GC), Frederick Planning Region. Tax Map 77 / Parcel 18, AP# 11615

All those wishing to testify were sworn in.

Staff Findings:

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements once the conditions of approval have been met.

Staff notes that if the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval. As previously stated, APF was previously approved on October 11, 2006 for the Monocacy Plaza Shopping Center (Urbana Pike, LLC) proposal, and is valid until October 11, 2015. Since there is no increase in trip intensity over the AP# 4824 approval, further APFO testing is not required.

Staff has no objection to conditional approval of the site plan.

Staff Recommendations:

Should the Planning Commission conditionally approve this Site Plan SP # 79-06 (AP# 11615, APFO 4823 & FRO 4825) for the proposed CarMax, the motion for approval should include the following item:

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1. Site plan approval for a period of three years from today's date or until APFO approval expires.
2. APFO approval until October 11, 2015

Staff recommends that the following items be added as conditions of approval:

1. Address all agency comments as the plan proceeds through completion.
2. Approval of Zoning Ordinance Modification requests for the following code sections:
 - a. §1-19-6.210.B Loading Space Requirements
 - b. §1-19-6.220.A Parking Space Requirements and Dimensions
 - c. §1-19-6.220.H.1 Parking Space Requirements and Dimensions
 - d. §1-19-6.400.A.2.c Landscaping and Screening
 - e. §1-19-6.500.B.2 Lighting Pole Height

Staff Presentation:

Tolson Desa, Principal Planner presented the Staff report along with a PowerPoint presentation.

Applicant Presentation:

Mr. Rand Weinberg, Esq. of Weinberg & Miller, Fran Zeller of Harris Smariga & Associates and Heath Kennedy of Centerpoint represented the applicant as well as J. N. Dixon of Carmax was present and all presented the proposal. The Applicant proffered to provide additional bike racks and accommodations as needed in order to meet the demand at their expense and stated their plans to recycle on site.

Public Comment:

None

Decision: Mr. Shreve made a motion for approval of Carmax, with the modifications as suggested by Staff and that the Applicant will continue to work with Staff on the bicycle accommodations, all in accordance with the Staff's findings and recommendations, 2nd by Ms. Wolfe.

Yea 5 Nay 2 (Forrence, McClurkin) Abstain 0 Absent 0

(Shreve left)

Break 12:00 p.m., Resumed at 12:04 p.m.

6. SPRING 2011 CYCLE WATER AND SEWERAGE PLAN AMENDMENTS

Staff Presentation:

Tim Goodfellow presented the Water and Sewerage Plan Amendments.

a) Case WS-11-01 Community Development Division/Russell Holdings, LLC

Tax Map 86, Part of Parcel 175, West side of MD 85. Requesting reclassification of 10 acres from W-5 Dev./S-5 Dev. to W-3 Dev./S-3 Dev.

Staff Recommendations:

Planning Staff presented the case and made a recommendation that the Planning Commission find the request consistent with the comprehensive Plan as the site is within a community growth area and a water/sewer service area.

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Applicant Presentation:

Mr. Dave Severn, Esq. of Severn, O'Connor and Kresslein represented the applicant and presented the proposal.

Public Comment:

None

Decision: Ms. Forrence made a motion to find Water and Sewerage Plan Amendment WS-11-01 consistent with the County Comprehensive Plan, 2nd by Ms. Wolfe.

Yea 6 Nay 0 Abstain 0 Absent 1 (Shreve)

b) **Case WS-11-02 City of Brunswick**

Tax Map 92, Parcel 2000, Lot 1; Tax Map 91, portions of Parcel 23; Tax Map 92, Parcel 29, South side of MD 17. Requesting reclassification of 48 acres from S-4 Dev. to S-3 Dev.

Staff Recommendations:

Planning Staff presented the case and made a recommendation that the Planning Commission find the request consistent with the 2007 Brunswick Master Plan as the site is within a community growth area and a water/sewer service area.

Applicant Presentation:

Mr. Bruce Dell, City Planning & Zoning Administrator, City of Brunswick was available to address questions.

Public Comment:

None

Decision: Ms. Forrence made a motion to find Water and Sewerage Plan Amendment WS-11-02 consistent with the Brunswick Master Plan, 2nd by Mr. Lawrence.

Yea 6 Nay 0 Abstain 0 Absent 1 (Shreve)

c) **Case WS-11-03 Oakdale Investments, LLC**

Tax Map 68, Parcel 36 and 162. Woodridge Phase IV. Requesting reclassification of 20 acres from W-4 Dev. to W-3 Dev.

Staff Recommendations:

Planning Staff presented the case and made a recommendation that the Planning Commission find the request consistent with the Comprehensive Plan as the site is within a community growth area and a water/sewer service area.

Applicant Presentation:

Mr. Jason Wiley of Elm Street Development represented the applicant, Oakdale Investments, and presented the proposal.

Public Comment:

None

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Decision: Ms. Forrence made a motion to find Water and Sewerage Plan Amendment WS-11-03 consistent with the County Comprehensive Plan, 2nd by Ms. Wolfe.

Yea 6 Nay 0 Abstain 0 Absent 1 (Shreve)

d) Case WS-11-04 RSB Holdings, LLC (Maynes Property)

Tax Map 51, Parcel 19, Daysville Road in Libertytown. Requesting reclassification of 11.4 acres from S-5 Dev. to S-4 Dev. and 14.5 acres from W-5 Dev. to W-4 Dev. plus the addition of water tank and water treatment plant symbols on the Water Map.

Staff Recommendations:

Planning Staff presented the case and made a recommendation that the Planning Commission find the request consistent with the Comprehensive Plan as the site is within a community growth area and a water/sewer service area.

Applicant Presentation:

Mr. Fran Zeller of Harris Smariga & Associates represented the applicant, RSB Holdings, and presented the proposal.

Public Comment:

None

Decision: Ms. Forrence made a motion to find Water and Sewerage Plan Amendment WS-11-04 consistent with the County Comprehensive Plan, 2nd by Ms. Wolfe.

6 Yea Nay 0 Abstain 0 Absent 1 (Shreve)

Being no further business, the meeting adjourned at 12:27 p.m.

Respectfully Submitted,

Robert White, Chair

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